



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/562,168

12/23/2005

Toru Takenaka

SAT-16280

7708

40854 7590 11/22/2010  
RANKIN, HILL & CLARK LLP  
38210 GLENN AVENUE  
WILLOUGHBY, OH 44094-7808

EXAMINER

MOYER, DALE S

ART UNIT

PAPER NUMBER

3664

NOTIFICATION DATE

DELIVERY MODE

11/22/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

40854@rankinhill.com  
spaw@rankinhill.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/562,168	<b>Applicant(s)</b> TAKENAKA ET AL.	
	<b>Examiner</b> Dale Moyer	<b>Art Unit</b> 3664	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Status of the Application***

1. This final office action is in response to the applicants' "Amendment E" received on 08 September 2010.
2. Claims 1-79 have been presented in the application, of which, claims 20-79 are cancelled, claims 1-2, 6, 8, 10-11, 13 and 16-19 are currently amended, claims 4 and 15 were previously presented and claims 3, 5, 7, 9, 12 and 14 are original. Accordingly, pending claims 1-19 are addressed herein.

### ***Priority***

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Response to Arguments***

4. In response to the applicants' amendments and/or arguments, the objection to the specification has been withdrawn.
5. In response to the applicants' amendments and/or arguments, the rejection of claims 1-19 as being indefinite have been withdrawn.
6. The applicant's arguments regarding the rejection of claims 1-19 under 35 U.S.C. § 102(b) as anticipated by Takenaka et al. (WO 2003/090981) have been fully considered but they are not persuasive.

The present application is based on international application PCT/JP04/09472 which designates the United States and therefore has the effect of a national application as provided by 35 U.S.C. § 363. Accordingly, national application 10/562,168 has a

Art Unit: 3664

filing date of 28 June 2004. Additionally, the national application claims foreign priority to JP 2003-185930 under 35 U.S.C. § 365(b) according to 35 U.S.C. § 119(a).

However, "if [an] application claims foreign priority under 35 U.S.C. 119(a)-(d) or 365(a) or (b), the effective filing date is the filing date of the U.S. application... The filing date of the foreign priority documents is not the effective filing date, although the filing date of the foreign priority documents may be used to overcome certain references" see MPEP 706.02(VI).

Further, "in order to determine which section of 35 U.S.C. 102 applies, the effective filing date of the application must be determined and compared with the date of the reference" see MPEP 706.02(a).

Therefore, the Takenaka et al. reference having a publication date of 11 June 2003 predates the national application effective filing date of 28 June 2004 by more than one year. Thus, the rejection of claims 1-19 under 35 U.S.C. 102(b) as anticipated by Takenaka et al. (WO 2003/090981) is proper.

### ***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The term "actual state amount" while mentioned in the specification is not described in the specification in such a way as to enable a person skilled in the art to make and/or use the invention. That is, the specification does not disclose what an actual state amount is and how the person could determine an actual state amount.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Takenaka et al. (WO 2003/090981).

***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 3664

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dale Moyer whose telephone number is (571)270-7821. The examiner can normally be reached on Monday through Thursday from 10AM to 4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Khoi H. Tran can be reached on (571)272-6919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000

/Dale Moyer/  
Examiner, Art Unit 3664

/KHOI TRAN/  
Supervisory Patent Examiner, Art Unit 3664